

**REMARKS/ARGUMENTS**

This communication is responsive to the Official Action dated January 12, 2006, rejecting all the claims, namely claims 1-18, then pending in the application ("Final Rejection"). A three-month extension of the time to respond, up to and including July 12, 2006, is filed concurrently herewith. Applicants are also filing concurrently herewith a Request for Continued Examination along with the appropriate fee therefor.

Applicants have also filed concurrently herewith an Information Disclosure Statement disclosing the litigations which the subject matter of the present application have been involved in.

Applicants note with appreciation the Examiner's careful consideration of applicants' amendment filed October 17, 2005 and the withdrawal of the rejection of the application as including new subject matter.

**Claim Amendments**

Claim 1 has been amended to now recite "a first hand-held unit . . . including a radio frequency transmitter operative to transmit internal temperature readings associated with the food being cooked." Claim 1 has also been amended to now recite "a temperature sensor for measuring the internal temperature of the food being cooked and connectable to said first hand-held unit." Claim 1 has been further amended to improve its form in view of the foregoing amendments. Support for the foregoing amendments to claim 1 may be found by reference to, for example, paragraph [0021] of the application.

Claim 2 has been amended to now recite "wherein said temperature sensor further comprises a substantially rigid temperature probe having a distal end and a proximal end." Although the amendments to claim 2 are to its form as a result of the amendments to claim 1, support for the amendments to

claim 2 may be found by reference to, for example, paragraph [0027] of the application.

Claim 3 has been amended to now recite "wherein said first hand-held unit includes a liquid crystal display for selectively displaying said taste preference." Support for the amendment to claim 3 may be found by reference to paragraph [0021] of the application.

Claim 4 has been amended to improve its form.

Claim 9 has been canceled.

Claims 13 and 16 have been amended to improve their form.

Claim 14 has been amended to now recite "a temperature sensor having a substantially rigid temperature probe insertable in a meat being cooked and connectable to said first hand-held unit; [and] a microprocessor operable to establish a temperature setting based on a meat selection preference and the taste selection preference, monitor the temperature sensor reading and communicate the temperature sensor reading to the radio frequency transmitter." Support for the amendments to claim 14 may be found by reference to, for example, paragraphs [0021] and [0027] of the application.

Claim 19 is presented for the first time. Support for claim 19 may be found by reference to, for example, paragraphs [0021] through [0024] of the application.

In view of the foregoing, applicants respectfully submit that no new matter is added to the application by the amendments to the claims. In addition, applicants respectfully submit that the amendments are intended to focus the claimed invention on the features which applicants respectfully submit render the claims allowable over the art of record, as is further discussed in detail below.

In particular, the claimed invention is generally directed to system that includes two hand-held units that allow

an operator to remotely monitor the status of a food item as it is being cooked. (Specification, ¶ [0021].) A first hand-held unit is conveniently located adjacent to the food being cooked. (Id.) The first unit receives the internal temperature of the food being cooked from a temperature sensor to which it is connected. (Id., [0027].) The system further includes a microprocessor that allows the user to set a taste preference and choice preference. The system also includes a second unit that wirelessly communicates with the first unit. (Id., [0025].) The second unit advantageously allows a user to move away from the cooking location while the food is being cooked. (Id., [0009].) The claimed invention therefore solves a need not disclosed or suggested by the prior art in that the hand-held units allow for user mobility yet while allowing a particular food item to be cooked to the user's desired taste preference. None of the references cited, either singly or when combined, provide this advantage or teach the claimed combination as is set forth in detail below.

#### Rejections

In the Final Rejection, the Examiner rejected claims 1-2, 4-5, 9-10 and 12-13 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 5,939,974 to Heagle et al. ("Heagle") in view of U.S. Patents D418,069 to Chung et al. ("Chung") and 6,080,972 to May ("May"). (Final Rejection 2.) The Examiner also rejected claims 3 and 8 under 35 U.S.C. §103 as being unpatentable over Heagle, Chung and May and further in view of U.S. Patent 6,000,845 to Tymkewicz et al. ("Tymkewicz"). (Id. 4.)

Claims 7, 11 and 12 were also rejected under 35 U.S.C. §103(a) as being unpatentable over Heagle, Chung and May and further in view of U.S. Patent 4,131,786 to Cooper ("Cooper"). (Id. 5.)

Claims 14, 15 and 18 were rejected as being

unpatentable over *Heagle* in view of *Chung*, U.S. Patent 5,983,783 to Archard et al. ("*Archard*") and *May*. (Final Rejection 6.) In the final rejection, the Examiner referred to *Archard*, but did not provide the particular patent number. Therefore, applicants assume that the *Archard* reference is the same reference cited in the Information Disclosure Statement by applicants filed on December 11, 2003.

In rejecting claim 1, the Examiner asserts that *Heagle's* computer or CPU 50 "inherently" includes a "microprocessor and a display." (Final Rejection 2.) Although recognizing that "*Heagle* is silent so as to having a second LCD," the Examiner nonetheless asserts that "it is very well known in the art, that the majority of modern computers hav[e] [an] LCD" (*Id.*) The Examiner further acknowledges that "*Heagle* does not explicitly teach . . . that the second unit is a hand-held unit, as stated in claim 1." (*Id.*)

The Examiner asserts, however, that *Chung* and *May* makeup for the foregoing deficiencies in *Heagle*. In particular, the Examiner asserts that *Chung* discloses a first hand-held unit having a curved probe and that *May* discloses a second hand-held unit "having a microprocessor and capable of programming/calibrating the modes of the food being cooked for well done, rare, etc." (Final Rejection 3.)

In addition, as best understood, although the Examiner did not explicitly acknowledge that *Heagle* does not disclose "at least one microprocessor operative to calibrated taste preference and a choice preference associated with the food being cooked" as recited in claim 1, the Examiner asserted that that *Chung's* device "has a display displaying food data (i.e., beef, chicken, etc.)" (Final Rejection 3.) The Examiner then concluded that it would have been obvious to combine *Chung* and *Heagle* to produce "the first unit so as to have a display displaying taste preferences." (*id.*) Applicants respectfully

disagree with the Examiner's conclusion and respectfully submit that the combination of *Heagle* and *Chung* do not teach or suggest displaying taste preferences.

In particular, neither *Heagle* nor *Chung* mentions or discusses "a microprocessor operative to calibrate a taste preference." As recognized by the Examiner, *Chung's* device displays a choice preference or the type of food being cooked (e.g., beef). (*Chung*, FIGS. 1-8) However, since the claim distinguishes between taste preference and choice preference, these two terms must be treated differently. In that regard, although *Chung* discloses a choice preference, the Examiner has not pointed to anywhere in either *Heagle* or *Chung* for supporting her conclusion that together these references show or suggest "a display displaying taste preferences." Applicants respectfully submit that, in fact, neither *Chung* nor *Heagle* teach or suggest a taste preference. As such, applicants respectfully submit that neither *Chung* nor *Heagle* teach or suggest a display that shows taste preferences.

As previously noted above, the Examiner also asserted that *May* makes up for the other deficiency in *Heagle* by disclosing "a second . . . hand-held unit (remote portable computer) inherently." (Final Rejection 3.) Applicants respectfully disagree with the Examiner that *May* discloses a portable computer at all. *May* discloses a desktop personal computer. (*May*, see FIG. 4 and its accompanying description.) As clearly seen in FIG. 4 and described in *May*, the personal computer 200 is not portable. In addition, there is no suggestion in *May* to provide a portable computer much less a hand held device. For at least this reason, applicants respectfully submit that *May* does not make up for the deficiency in *Heagle* of not disclosing or suggesting a second hand-held device.

As applicants have previously noted in the prosecution

of the ground parent application to the present application, *May* only discloses a remotely programmable oven controller. (*May*, Col. 5, ll. 46-50) Although the oven controller may be controlled remotely, it is only disclosed as being controlled by a personal computer. (*Id.*, Col. 8, ll. 10-20.) Furthermore, while *May* discloses that the personal computer includes software for communicating with the oven panel shown in FIG. 2, *May* includes no disclosure of taste preferences for different types of food as asserted by the Examiner. In particular, *May* specifically discloses that the operator has to put in a program sequence to cook the food. (*Id.*, FIG. 3 and accompanying description.) Thus, it is clear that a taste preference selection is not provided by the computer. Indeed, if *May* taught a taste preference, there would be no need for the operator to input a program sequence. (*Id.*, Col. 7, l. 33- Col. 8, l. 36).

The Examiner further asserts with respect to both *Heagle* and *May*, that it is well known "that the majority of modern computers hav[e] [a] LCD.) Applicants respectfully traverse the Examiner's rejection in this regard. In particular, both *Heagle* and *May* specifically disclose a monitor separate from a CPU. (*Heagle*, see FIG. 2 and Col. 16, ll. 51-57; *May*, see FIG. 4, Col. 8, ll. 10-20.) Thus, applicants respectfully submit that neither *Heagle* nor *May* disclose "a second hand-held unit including liquid crystal display," as recited in claim 1. Simply put, both these references disclose a CRT or display separate from the CPU. Furthermore, desktop computers typically come equipped with a separate monitor or LCD.

Thus, since *Heagle's* and *May's* desktop computers are taught as including separate monitors, these references also do not teach or suggest "a second hand-held unit including a liquid crystal display," as is recited in claim 1.

With regard to *Tymkewicz* and *Archard*, applicants respectfully submit that although these references disclose taste preference on a chef fork and a temperature sensing and indicating device, respectively, there is no motivation or suggestion to combine these references with either *Heagle* or *May*. In particular, *Tymkewicz* and *Archard*, like *Chung*, disclose a single unit which is inserted in the food being cooked. Neither of these units is disclosed as including a radio frequency transmitter. Thus, there is no suggestion in either *Tymkewicz* or *Archard* that these units are "operative to transmit internal temperature reading associated with the food being cooked," as is recited in claim 1. Rather, *Tymkewicz*, *Archard* and *Chung* disclose a similar device, which requires that the user be collocated with the food being cooked to determine status of the food. Thus, *Tymkewicz*, *Archard* and *Chung* do not disclose a second hand-held unit as recited in claim 1.

In addition, as previously discussed above, *Heagle* and *May* likewise do not disclose a second hand-held unit. In particular, both these references disclose desktop computers, which are not suitable as hand-held devices. In addition, there is no suggestion in either *Heagle* or *May* to compute or calibrate a taste preference. Therefore, one of ordinary skill in the art looking at the references relied on by the Examiner in rejecting claim 1 would at least need to (1) conceive a second hand-held device that allows the user remote access to the first unit; and (2) wirelessly communicating taste preference and meat choice preference between these two units. Applicants respectfully submit that none of the references disclose or suggest either of these features of the claim invention. In other words, even when combined the references do not teach or suggest a second hand held unit as claimed in claim 1. Therefore, for at least the foregoing reasons, applicants respectfully submit that the references when combined do not render claim 1 obvious.

Applicants further respectfully submit that U.S. Patents 4,131,786 to Cooper ("*Cooper*") and 5,378,874 to Holling et al. ("*Holling*") do not make up for the deficiencies discussed above for *Heagle*, *Chung*, *Tymkewicz*, *Archard* and *May*. In particular, *Cooper's* remotely controllable electric oven, like *May's* remotely controlled oven, requires that user program the cooking sequence and does not teach or suggest a taste preference setting, nor does it include an LCD. Other than teaching a noise generating device, applicants respectfully submit that *Holling* is not pertinent.

In addition, as claim 14 recites "a second hand-held unit including a radio frequency receiver for reception of the temperature sensor reading transmitted by the radio frequency transmitter and a second visual display for displaying the received temperature sensor reading," applicants also respectfully submit claim 14 is not rendered obvious by the references for at least the foregoing reasons.

Claim 19 is also not rendered obvious for at least the foregoing reasons as it recites "a second hand-held unit including data entry keys operable for selecting a meat choice preference of the food being cooked for temperature monitoring and selecting a taste preference associated with said selected meat choice, a liquid crystal display (LCD) and a radio frequency receiver adapted to receive said temperature readings transmitted by said radio frequency transmitter."

This feature of claims 1, 14 and 19 is not disclosed or suggested by the references of record in the application. To summarize, *Tymkewicz*, *Archard* and *Chung* disclose only a first unit, but not a second unit. On the other hand, although *May* and *Heagle* disclose desktop computers, these computers are not identical to or suggestive of the claimed second hand-held unit. Thus, the references cannot be combined to render the claims of



the present application obvious.

As each of the other claims in the application depend from either claim 1, 14 or 19, these claims are also not rendered obvious for at least the foregoing reasons.

\* \* \*

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that she telephone applicants' attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: July 12, 2006

Respectfully submitted,

By 

Orville R. Cockings

Registration No.: 42,424

LERNER, DAVID, LITTENBERG,

KRUMHOLZ & MENTLIK, LLP

600 South Avenue West

Westfield, New Jersey 07090

(908) 654-5000

Attorney for Applicant